

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
ARTEM GALYNKIN,

Plaintiff,

Case No.:

**NOTICE OF REMOVAL**

- against -

PEDRO PENA and WALL EXPRESS, INC.,

Defendants.  
-----X

TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN  
DISTRICT OF NEW YORK:

**PLEASE TAKE NOTICE** that Defendants PEDRO PENA and WALL EXPRESS, INC., through their attorneys TRAUB LIEBERMAN STRAUS & SHREWSBERRY LLP, give notice that the above-captioned action, filed with the Supreme Court for the State of New York, County of Kings (corresponding with index number 508494/2022) and all claims and causes of action therein (the “State Action”), is removed to the United States District Court for the Eastern District of New York. Defendants grounds for removal are as follows:

**GROUND FOR REMOVAL**

1. Pursuant to 28 U.S.C. §1332(a), this Court has original jurisdiction over “the State Action” under based on diversity jurisdiction, and removal is proper pursuant to 29 U.S.C. §§1441 and 1446.

2. Pursuant to 28 U.S.C. §1441(a), venue is proper because this Court constitutes the district court of the United States for the district and division embracing the place where “the State Action” is pending.

**Procedural History and Timeliness of Removal**

3. On March 18, 2022, Plaintiff, Artem Galynkin filed “the State Action” against the Defendants, Pedro Pena and Wall Express, Inc.

4. Plaintiff served the Summons and Complaint from “the State Action” on Defendant Wall Express, Inc. on March 30, 2021. Plaintiff served the Summons and Verified Complaint from “the State Action” on Defendant Pedro Pena on March 31, 2021.

5. Plaintiff filed the affidavits of service on the Defendants on April 21, 2022.

6. A copy of the Summons and Complaint with the Service of Process Transmittal by the Secretary of State is attached as Exhibit A in accordance with 28 U.S.C. §1446(a).

7. Accordingly, this Notice of Removal is timely.

8. No other motions or proceedings are pending in the State Action.

9. No previous application relief requested herein has been made.

10. Pursuant to 28 U.S.C. §1446(d), promptly after this notice of removal is filed, Defendants will give written notice to all adverse parties and will electronically file a copy of this Notice of Removal in “the State Action” through NYSCEF.

**Removal is Proper under 28 U.S.C. §§ 1332 and 1441**

11. In accordance with 28 U.S.C. §1332(a) this Court has original jurisdiction over any matter where “the matter in controversy exceeds the sum or value of \$75,000” and the matter is between the “citizens of different States and in which citizens or subjections of a foreign state are additional parties.”

12. As for 28 U.S.C. §1441(a), “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants.”

13. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1332 because there is complete diversity among the parties, given that Plaintiff is a New York resident and the Defendants are Pennsylvania residents. Complete diversity existed when Plaintiff filed the Summons and Verified Complaint in the State Action and complete diversity exists at the time of the filing of this removal petition. As such, removal to this Court is justified and appropriate.

14. Plaintiff's Verified Complaint alleges that Artem Galynkin is a citizen of the County of Kings, State of New York. As evidence in the affidavits of service, Defendant Pedro is a citizen of the State of the Pennsylvania and Defendant Wall Express, Inc. is a corporation organized under the laws of the State of Pennsylvania and is a citizen of the State of Pennsylvania. See Exhibit A, page 1 and pages 9 through 10.

15. This action arises out of a motor vehicle accident involving Plaintiff and Defendants. Plaintiff Adriana claims to have sustained "serious personal injuries as defined in Section §5102(d) of the Insurance Law of the State of New York; and sustained and/or will sustained non-economic loss as defined in Section §5102(c) of the Insurance Law of the State of New York." See Exhibit A, page 5, paragraph 13.

16. Furthermore, Plaintiff claims as follows: "the amount of damages sought in this action exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction." See Exhibit A, page 5, paragraph 15.

17. As this Court is aware, the basic economic loss as defined by Section §5102 of the Insurance Law of the State of New York is \$50,000. Accordingly, it is a logical and reasonable conclusion that Plaintiff is asserting a claim that exceeds \$75,000 based upon the allegations contained in the Verified Complaint.

**WHEREFORE**, Defendants respectfully submit it is proper to remove the State Action is from the Supreme Court of the State of New York, County of Queens to the United States District Court in the Eastern District of New York.

Dated: Hawthorne, New York  
May 13, 2022

**TRAUB LIEBERMAN STRAUS  
& SHREWSBERRY LLP**  
*Attorneys for Defendants*  
*Pedro Pena and Wall Express, Inc.*

By: *Lisa M. Rolle*  
Lisa M. Rolle, Esq.  
Mid-Westchester Executive Park  
Seven Skyline Drive  
Hawthorne, New York 10532  
(914) 347-2600

TO:

**IRINA P. VAIMAN, P.C.**  
*Attorneys for Plaintiff*  
*Artem Galynkin*  
1322 Gravesend Neck Road  
Brooklyn, New York 11229  
(718) 743-6611

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

ARTEM GALYNKIN

(b) County of Residence of First Listed Plaintiff KINGS  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

IRINA P. VAIMAN, P.C., 1322 Gravesend Neck Rd,  
Brooklyn, NY 11229 (718) 743-6611

## DEFENDANTS

PEDRO PENA and WALL EXPRESS, INC.

County of Residence of First Listed Defendant LEHIGH  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF  
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

TRAUB LIEBERMAN STRAUS & SHREWSBERRY, LLP  
7 Skyline Drive

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

Does this action include a motion for temporary restraining order or order to show cause? Yes ☐ No ☐

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                                   |   | PTF                        | DEF                        |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1            | <input type="checkbox"/> 1            | Incorporated or Principal Place of Business in This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input checked="" type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3            | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

## V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. 1332

Brief description of cause:  
Removing from State Court to Federal Court based on Diversity

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

May 13, 2022

SIGNATURE OF ATTORNEY OF RECORD

JWC-Rolle

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

**CERTIFICATION OF ARBITRATION ELIGIBILITY**

Local Arbitration Rule 83.7 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration ☐

I, Lisa M. Rolle, counsel for Defendants, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

☐  
☐  
☒

monetary damages sought are in excess of \$150,000, exclusive of interest and costs,

the complaint seeks injunctive relief,

the matter is otherwise ineligible for the following reason

**DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1**

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

**RELATED CASE STATEMENT (Section VIII on the Front of this Form)**

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that "A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

**NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)**

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? ☐ Yes ☒ No
- 2.) If you answered "no" above:
  - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? ☐ Yes ☒ No
  - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? ☒ Yes ☐ No
  - c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received:

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? ☐ Yes ☐ No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

**BAR ADMISSION**

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

☒

Yes

☐

No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

☐

Yes (If yes, please explain

☒

No

I certify the accuracy of all information provided above.

Signature: Lisa Rolle

# EXHIBIT “A”

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS-----X  
ARTEM GALYNKIN,

Index No.:

Filed:

Plaintiff(s),

Plaintiff designates  
Kings County  
as the place of trial

-against-

PEDRO PENA and WALL EXPRESS, INC.,

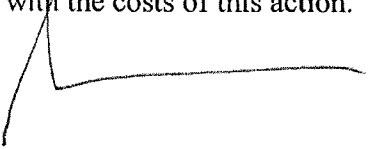
**SUMMONS**The basis venue is  
Place of the Plaintiff residents  
Plaintiff resides at:  
8700 25<sup>th</sup> Avenue Apt 2C  
Brooklyn, New York 11214

Defendant(s).

-----X  
TO THE ABOVE-NAMED DEFENDANT:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your Answer on the plaintiff's attorney within 20 days after the service of this Summons is complete, exclusive of the day of service, or within 30 days after the service of this Summons is complete if this Summons is not personally delivered to you within the State of New York.

In case of your failure to answer this Summons, a judgment will be taken against you by default for the relief demanded in the Complaint, together with the costs of this action.

Dated: Brooklyn, New York  
March 18<sup>th</sup>, 2022  
\_\_\_\_\_  
Irina P. Vaiman, P.C.  
Attorney for Plaintiff(s)  
ARTEM GALYNKIN  
1322 Gravesend Neck Road  
Brooklyn, NY 11229  
(718) 743-6611TO: Pedro Pena  
2834 Alton Avenue  
Allentown, PA 18103Wall Express, Inc.  
545 N Centre Street  
Pottsville, PA 17901

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X  
ARTEM GALYNKIN,

Index:  
Filed:

Plaintiff,

**VERIFIED**  
**COMPLAINT**

-against-

PEDRO PENA and WALL EXPRESS, INC.,

Defendants  
-----X

Plaintiff(s), by his attorney, IRINA P. VAIMAN, ESQ., complaining of the defendant(s), respectfully sets forth and alleges upon information and belief, as follows:

1. That at all times hereinafter mentioned, plaintiff, ARTEM GALYNKIN, was and still is a resident of the State of New York, County of Kings.
2. That at all times hereinafter mentioned, defendant, PEDRO PENA, was and still is a resident of the State of Pennsylvania, County of Lehigh.
3. That at the time and place hereinafter mentioned plaintiff, ARTEM GALYNKIN was the owner and operator in charge and control of the motor vehicle bearing New York State license plate number DWE2584.
4. That at the time and place hereinafter mentioned defendant, PEDRO PENA was the operator in charge and in control of the motor vehicle bearing Pennsylvania State license plate number PT897K4, with full knowledge and permission of its owner.
5. That at the time and place hereinafter mentioned defendant, WALL EXPRESS, INC., was the owner of the motor vehicle bearing Pennsylvania State license plate number PT897K4.

6. That at all times hereinafter mentioned, on Metropolitan Avenue, at or near its intersection with Woodward Avenue, in the County of Queens, which was and still is a public street, road and/or thoroughfare in the State of New York.

7. That on the 23<sup>rd</sup> Day of November 2020, plaintiff, ARTEM GALYNKIN, was operating the motor vehicle bearing New York State license plate number DWE2584, on Metropolitan Avenue, at or near its intersection with Woodward Avenue, in the County of Queens.

8. That on the 23<sup>rd</sup> Day of November 2020, defendant, PEDRO PENA, was operating the motor vehicles bearing Pennsylvania State license plate number PT897K4, on Metropolitan Avenue, at or near its intersection with Woodward Avenue, in the County of Queens.

9. That on the 23<sup>rd</sup> Day of November 2020, at approximately 9:57 a. m. o'clock of that day, the aforementioned motor vehicle operated by defendant, PEDRO PENA, collided into the motor vehicle operated by plaintiff, ARTEM GALYNKIN, and caused a collision.

10. That heretofore on the 23<sup>rd</sup> Day of November 2020, at approximately 9:57 a. m. o'clock of that day, the aforesaid motor vehicle of the defendant(s) were so negligently and carelessly owned, operated, managed, supervised, and controlled, so as to cause said motor vehicle to suddenly, and without any notice, signal or warning, strike and collide with the motor vehicle occupied by the plaintiff(s), thereby causing plaintiff(s) to sustain the severe, serious, and, upon information and belief, permanent personal injuries and damages hereafter to be more specifically set forth.

11. That the aforesaid occurrence and the injuries and damages resulting therefrom to plaintiff(s) were caused wholly and solely by reason of the negligence and carelessness of the defendant(s), and without any negligence on the part of the plaintiff(s) contributing thereto.

12. That the aforesaid occurrence and the injuries and damages resulting therefrom to plaintiff(s) were caused wholly and solely by reason of the negligence and carelessness of the defendant(s), in failing and omitting to have and to maintain the said motor vehicle under reasonable and proper control, and in mismanaging the same; in operating the said motor vehicle at a high, dangerous, reckless, unsafe and/or unlawful rate of speed under the traffic and road conditions then and there prevailing; in failing and omitting to keep a safe and proper distance away from motor vehicle occupied by the plaintiff(s); in failing and omitting to apply the brakes to the said motor vehicle in sufficient time in order to have avoided the accident herein complained of; in failing and omitting to give any notice, signal or warning of the approach of the said motor vehicle; in failing and omitting to give the motor vehicle occupied by the plaintiff(s) the right of way; in failing and omitting to observe the motor vehicle occupied by the plaintiff(s) upon the highway in sufficient time so that in the reasonable and proper management and control of the said motor vehicle, the defendant(s) could have avoided the accident herein complained of; in failing and omitting to observe and/or obey the traffic signs and/or signals then and there prevailing; in failing and omitting to keep a proper lookout; in failing and omitting to have safe and adequate brakes and braking mechanisms on the said motor vehicle; in following the motor vehicle of the plaintiff(s) too closely; in violating the laws, statutes, rules, regulations, and ordinances pertaining to motor vehicles and motor vehicle traffic in the City and the State of New York, including but not limited to Section 1129 of the Vehicle and Traffic Laws; in failing and omitting to exercise that degree of care, caution and

diligence with respect to the ownership, operation, maintenance, supervision, repair and control of the said motor vehicle, as would be just, reasonable and proper in order to have prevented the accident herein complained of.

13. That solely as a result of the foregoing, plaintiff, ARTEM GALYNKIN, sustained "serious personal injuries" as defined in Section 5102(d) of the Insurance Law of the State of New York; and sustained and/or will sustain non-economic loss as defined in Section 5102(c) of the Insurance Law of the State of New York.

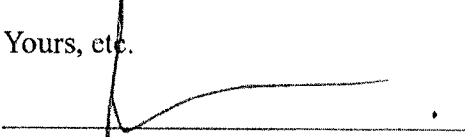
14. That solely as a result of the foregoing, plaintiff, ARTEM GALYNKIN, was caused to sustain severe, serious and, upon information and belief, permanent personal injuries; was rendered incapacitated and disabled from attending his usual, customary and daily occupation and vocation; was caused to undergo the pain of medical care and attention; was caused to sustain and will in the future sustain a loss of life's enjoyment, and plaintiff, ARTEM GALYNKIN, was otherwise injured and damaged in the amount to be determined upon trial of this action.

15. The amount of damages sought in this action exceeds the jurisdictional limits of all lower courts that would otherwise have jurisdiction.

**WHEREFORE**, plaintiff, ARTEM GALYNKIN, demands judgment against defendants on the First Cause of Action in the amount to be determined upon the trial of this action, together with the costs and disbursements of this action.

Dated: Brooklyn, NY  
March 18<sup>th</sup>, 2022

Yours, etc.



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Irina P. Vaiman, Esq.  
Irina P. Vaiman, P.C.,  
Attorney for Plaintiff(s)  
ARTEM GALYNKIN  
1322 Gravesend Neck Road  
Brooklyn, NY 11229  
(718) 743-6611

VERIFICATION

STATE OF NEW YORK     )  
  )     ss.:

COUNTY OF KINGS )

Artem Galynin, being duly sworn deposes and says that (s)he is the plaintiff in the above-entitled action; that (s)he has read the contents of the foregoing and knows the contents thereof and that the same is true to his knowledge, except as to matters on information and belief, and as to those matters, (s)he believes it to be true.

Dated: March 18th, 2022  
Brooklyn, New York

(X) Artem Galynin

Sworn to before me this 18th  
Day of March, 2022.

IRINA P. VAIMAN  
Notary Public, State of New York  
No. 02VA6005107  
Qualified in Kings County  
Expires 04/06/2022

**Index No.:**  
**SUPREME COURT OF THE STATE OF NEW YORK**  
**COUNTY OF KINGS**

**ARTEM GALYNKIN,**

**Filed:**

**Plaintiff,**

**-against-**

**PEDRO PENA and WALL EXPRESS, INC.,**

**Defendant(s)**

**SUMMONS AND COMPLAINT**

**IRINA VAIMAN, ESQ.**  
**Attorney for Plaintiff**  
**1322 Gravesend Neck Road**  
**Brooklyn, NY 11229**  
**(718) 743-6611**

**To:**  
**Attorney(s) for:**

**Service of a copy of the within**

**is hereby admitted.**

**Dated,**

.....

Supreme Court of the State of New York  
County of Kings

AFFIDAVIT OF SERVICE

Index No: 508494/2022  
Date Index Number Purchased: 03/23/2022

Plaintiff/Petitioner: **Artem Galynkin**  
Defendant/Respondent: **Pedro Pena, et al.**

COMMONWEALTH OF PENNSYLVANIA  
County of Dauphin ss.:

I, **Chad Spotts**, depose and say that I am a competent adult authorized to serve this process and that on **03/31/2022 at 12:32 PM**, I served the within **Summons; Verified Complaint; Verification on Pedro Pena** at **2834 Alton Avenue, Allentown, PA 18103** in the manner indicated below:

☒ SUITABLE AGE: by delivering a true copy of each to **Maria Pena, Spouse**, a person of suitable age and discretion. Said premises is recipient's ☐ actual place of business ☒ dwelling house (usual place of abode) within the state.


☒ MAIL COPY. On **04/04/2022**, deponent completed service by depositing a true copy of each document to the above address in a 1st Class postpaid properly addressed envelope not indicating that mailing was from an attorney or concerned legal action and marked "Personal and Confidential" in an official depository under the exclusive care and custody of the United States Post Office.

A description of the recipient, or other person served on behalf of the recipient is as follows:

Sex	Color of skin	Color of hair	Age	Height	Weight
Female	Hispanic	Black	55	5ft 08in	170 lbs
Other Features:					

☒ MIL. SRVC: I asked the person spoken to whether defendant was active in the military service of the United States or the State of New York in any capacity whatsoever and received a negative reply. Upon information and belief I have; being based on the conversations and observations above narrated, defendant is not in the military service.

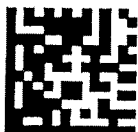
Sworn to and subscribed before me on  
April 5<sup>th</sup>, 2022  
by an affiant who is personally known to  
me or produced identification.

X   
Chad Spotts  
PM Legal  
1235 Broadway, 2nd Floor  
New York, NY 10001

Our File#: 6379952

  
NOTARY PUBLIC

Commonwealth of Pennsylvania - Notary Seal  
John F. Shinkowsky, Notary Public  
Dauphin County  
My commission expires September 28, 2022  
Commission number 1151303



Supreme Court of the State of New York  
County of Kings

AFFIDAVIT OF SERVICE

Index No: 508494/2022  
Date Index Number Purchased: 03/23/2022

Plaintiff/Petitioner: **Artem Galynkin**

Defendant/Respondent: **Pedro Pena, et al.**

COMMONWEALTH OF PENNSYLVANIA  
County of Dauphin ss.:


I, **Chad Spotts**, depose and say that I am a competent adult authorized to serve this process and that on 03/30/2022 at 12:23 PM, I served the within **Summons; Verified Complaint; Verification on Wall Express, Inc.** at **545 North Centre Street, Pottsville, PA 17901** in the manner indicated below:

☒ **CORPORATE SERVICE:** By delivering a true copy of each to **Ivan Pucar, Dispatcher** of the above named corporation. So served and authorized to accept service.

A description of the recipient, or other person served on behalf of the recipient is as follows:

Sex	Color of skin	Color of hair	Age	Height	Weight
Male	White	Black	55	5ft 10in	220 lbs
Other Features:					

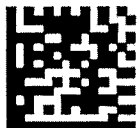
Sworn to and subscribed before me on  
April 4th, 2022  
by an affiant who is personally known to  
me or produced identification.

X   
Chad Spotts  
PM Legal  
1235 Broadway, 2nd Floor  
New York, NY 10001

  
NOTARY PUBLIC

Our File#: 6379978

Commonwealth of Pennsylvania - Notary Seal  
John F. Shinkowsky, Notary Public  
Dauphin County  
My commission expires September 28, 2022  
Commission number 1151303



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF

STATEMENT OF AUTHORIZATION FOR  
ELECTRONIC FILING  
(Managing Attorney Authorizing Individual Filing Agent)

I, Prina P. Varman, Esq., (Attorney Registration No. 2835908) am the  
managing attorney of/attorney in charge of e-filing for Law Offices of  
Prina P. Varman P.C. (the "Firm"). I hereby acknowledge and  
represent that the attorneys in the Firm who are authorized users of the NYSCEF system hereby  
authorize INSYNC LITIGATION SUPPORT, LLC ("the filing agent") to utilize his/her  
NYSCEF filing agent ID to file documents on their behalf and at their direction in any e-filed  
matter in which they are counsel of record through NYSCEF, as provided in Section 202.5-b of  
the Uniform Rules for the Trial Courts.

This authorization extends to any consensual matter in which these attorneys have  
previously consented to e-filing or may hereafter consent, to any mandatory matter in which  
they have recorded their representation, and to any matter in which they authorize the filing  
agent to record consent or representation in the NYSCEF system.

This authorization extends to any and all documents these attorneys generate and  
submit to the filing agent for filing in any such matter. This authorization, posted once on the  
NYSCEF website as to each matter in which these attorneys are counsel of record, shall be  
deemed to accompany any document in that matter filed by the filing agent on behalf of these  
attorneys.

This authorization also extends to matters of payment, which the filing agent may make  
either by debiting an account the filing agent maintains with the County Clerk of any authorized  
e-filing county or by debiting an account the Firm maintains with the County Clerk of any  
authorized e-filing county.

This authorization regarding this filing agent shall continue until the Firm revokes the  
authorization in writing on a prescribed form delivered to the E-Filing Resource Center.

Dated: 10/20/13

[Signature]  
Signature

Brooklyn, NY 11229  
City, State and Zip Code

Prina P. Varman  
Print Name

(718) 743-6611  
Phone

Law Offices of Prina P. Varman P.C.  
Firm/Department

iduesg@yahoo.com  
E-Mail Address

1322 Gravesend Neck  
Road, Brooklyn, NY 11229  
Street Address

inSync Acc. # FED273

Please send the completed form via email to wefile@insyncclitigation.com or  
by fax to (212) 500-5140. Thank you.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X Index No. 508494/2022  
ARTEM GALYNKIN,

**VERIFIED ANSWER**

Plaintiff,

-against-

PEDRO PENA and WALL EXPRESS, INC.

Defendants.

-----X  
Defendants PEDRO PENA and WALL EXPRESS, INC., by their attorneys, TRAUB  
LIEBERMAN STRAUS & SHREWSBERRY LLP, for their Verified Answer to the Verified  
Complaint, state as follows:

1. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "1" of the Verified Complaint.
2. Defendants admit the allegations set forth in paragraph "2" of the Verified Complaint.
3. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "3" of the Verified Complaint.
4. Defendants deny the allegations set forth in paragraph "4" of the Verified Complaint and respectfully refer all legal conclusions to the Court.
5. Defendants admit the allegations set forth in paragraph "5" of the Verified Complaint.
6. Defendants deny the allegations set forth in paragraph "6" of the Verified Complaint and respectfully refer all legal conclusions to the Court.

7. Defendants admit the allegations set forth in paragraph "7" of the Verified Complaint.

8. Defendants admit the allegations set forth in paragraph "8" of the Verified Complaint.

9. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph "9" of the Verified Complaint.

10. Defendants deny the allegations set forth in paragraph "10" of the Verified Complaint and respectfully refer all legal conclusions to the Court.

11. Defendants deny the allegations set forth in paragraph "11" of the Verified Complaint and respectfully refer all legal conclusions to the Court.

12. Defendants deny the allegations set forth in paragraph "12" of the Verified Complaint and respectfully refer all legal conclusions to the Court.

13. Defendants deny the allegations set forth in paragraph "13" of the Verified Complaint and respectfully refer all legal conclusions to the Court.

14. Defendants deny the allegations set forth in paragraph "14" of the Verified Complaint and respectfully refer all legal conclusions to the Court.

15. Defendants deny the allegations set forth in paragraph "15" of the Verified Complaint and respectfully refer all legal conclusions to the Court.

**FOR A FIRST AFFIRMATIVE DEFENSE**

16. Any injuries and/or damages sustained by Plaintiff, as alleged in the Verified Complaint, which Defendants deny, were caused, in whole or in part, by the contributory

negligence and/or culpable conduct of Plaintiff and not because of any negligence and/or culpable conduct on the part of Defendants.

**FOR A SECOND AFFIRMATIVE DEFENSE**

17. Plaintiff lacks personal jurisdiction over the Defendants, and, as such, this venue is improper.

**FOR A THIRD AFFIRMATIVE DEFENSE**

18. Plaintiff failed to exercise ordinary care to effect a cure and to prevent aggravation of the alleged injury and damage.

**FOR A FOURTH AFFIRMATIVE DEFENSE**

19. The Verified Complaint fails to state a cause of action upon which relief can be granted.

**FOR A FIFTH AFFIRMATIVE DEFENSE**

20. Pursuant to the provisions of Article 16 of the CPLR, should Defendants be found liable for damages, such liability being 50% or less of the total liability assigned to all persons liable, the liability of Defendants for non-economic loss shall not exceed their equitable share determined in accordance with the relative culpability of all parties liable.

**FOR A SIXTH AFFIRMATIVE DEFENSE**

21. By entering into the activity in which Plaintiff was engaged at the time of the occurrence set forth in the Verified Complaint, Plaintiff knew the inherent risks incident thereto and had full knowledge of the dangers thereof; that whatever injuries and damages were sustained by Plaintiff herein as alleged in the Verified Complaint arise from and were caused by reason of

such risks voluntarily undertaken by Plaintiff in the activities and such risks were assumed and accepted by Plaintiff in performing and engaging in said activities.

**FOR A SEVENTH AFFIRMATIVE DEFENSE**

22. Upon information and belief, Plaintiff either failed to use, improperly used or misused available seat belts as a result of which the alleged injuries were sustained or aggravated and by virtue of the foregoing, the damages, if any, to which Plaintiff might otherwise be entitled to recover should be mitigated accordingly.

**FOR AN EIGHTH AFFIRMATIVE DEFENSE**

23. If there were any defects or hazardous conditions referred to in the Verified Complaint, which Defendants deny, Plaintiff failed to exercise reasonable care to discover the alleged defects and to appreciate the dangers thereof.

**FOR A NINTH AFFIRMATIVE DEFENSE**

24. The negligence of a third person or entity over whom Defendants had no control was a superseding cause and insulates Defendants from liability.

**FOR A TENTH AFFIRMATIVE DEFENSE**

25. The provisions of C.P.L.R. Article 50-B apply to any verdict in this case.

**FOR AN ELEVENTH AFFIRMATIVE DEFENSE**

26. The dangers, if any, alleged in the Verified Complaint were patent, open and obvious.

**FOR A TWELFTH AFFIRMATIVE DEFENSE**

27. Plaintiffs' conduct was the sole proximate cause of the injuries alleged.

**FOR A THIRTEENTH AFFIRMATIVE DEFENSE**

28. Defendants were not served in accordance with the provisions of the CPLR and, accordingly, the Court lacks jurisdiction over the person of Defendants.

**FOR A FOURTEENTH AFFIRMATIVE DEFENSE**

29. This action is barred as against Defendants by virtue of 49 U.S.C. §30106 (the Graves Amendment).

**FOR A FIFTEENTH AFFIRMATIVE DEFENSE**

30. The accident described in the Complaint did not result in a serious injury to Plaintiff as so defined in and by Section § 5102 (d) of the Insurance Law of the State of New York. By reason of the premise aforesaid, and as expressly provided in CPLR § 3016 (g) of the State of New York, Plaintiff had and has no right to institute, maintain or prosecute this action and are barred from so doing.

**FOR A SIXTEENTH AFFIRMATIVE DEFENSE**

31. This lawsuit may not be maintained pursuant to §§ 5102 and 5104 of the New York State Insurance Law based upon Plaintiff's failure to sustained a serious injury within the meaning of the statute.

**FOR A SEVENTEENTH AFFIRMATIVE DEFENSE**

32. If Plaintiff sustained a serious injury as so defined in and by Section 5102 (d) of the Insurance Law of the State of New York, such injury was sustained solely as a result of Plaintiff's failure to abide by New York State's Vehicle and Traffic Laws.

**FOR AN EIGHTEENTH AFFIRMATIVE DEFENSE**

33. In the event Plaintiff recovers a verdict or judgment against Defendants, then such verdict or judgment must be reduced pursuant to CPLR §4545(c) by those amounts which have been or will, with reasonable certainty, replace or indemnify Plaintiff, in whole or in part, for any past or future claimed economic loss, from any collateral source such as insurance, social security, worker's compensation or employee benefit programs.

**WHEREFORE**, Defendants demand judgment dismissing the Verified Complaint together with costs, disbursements and attorneys' fees of this action and for such other and further relief as this Court deems just and proper.

Dated: Hawthorne, New York  
May 13, 2022

**TRAUB LIEBERMAN STRAUS  
& SHREWSBERRY, LLP**  
*Attorneys for Defendants*  
*Pedro Pena and Wall Express, Inc.*

By: *Lisa M. Rolle*  
Lisa M. Rolle, Esq.  
Mid Westchester Executive Park  
7 Skyline Drive  
Hawthorne, New York 10532  
(914) 347-2600

TO:

**IRINA P. VAIMAN, P.C.**  
*Attorneys for Plaintiff*  
*Artem Galynkin*  
1322 Gravesend Neck Road  
Brooklyn, New York 11229  
(718) 743-6611

ATTORNEY VERIFICATION

STATE OF NEW YORK                    )  
  ) ss.:  
COUNTY OF WESTCHESTER        )

PEDRO PENA and WALL EXPRESS, INC.. are Defendants in this action.

I am a partner with the firm of Traub Lieberman Straus & Shrewsberry LLP, which has been retained to represent the Defendants in the action herein;

I have read the annexed Verified Answer to Plaintiff's Verified Complaint, know the contents thereof, and the same is true to my knowledge, except to those matters therein which are stated to be alleged upon information and belief, and, as to those matters, I believe them to be true.

My belief, as to those matters therein not stated upon my knowledge, is based upon information contained in our file.

I affirm that the foregoing statements are true under penalties of perjury.

This Verification is made by me and not by the Defendants because the Defendants is located outside the county in which my office is located.

Lisa M. Rolle  
\_\_\_\_\_  
Lisa M. Rolle, Esq.  
TRAUB LIEBERMAN STRAUS  
& SHREWSBERRY LLP  
Mid-Westchester Executive Park  
Seven Skyline Drive  
Hawthorne, New York 10532  
914-347-2600

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF KINGS

-----X  
ARTEM GALYNKIN,

Index No. 508494/2022

Plaintiff,

**NOTICE OF DEPOSITION**

-against-

PEDRO PENA and WALL EXPRESS, INC.,

Defendants.

-----X

**PLEASE TAKE NOTICE** that, pursuant to Article 31 of the CPLR, the depositions upon oral examination of ALL PARTIES, in the order of the caption, will be taken at a time, date and location to be mutually agreed upon by the parties in Kings County.

**PLEASE TAKE FURTHER NOTICE** that said parties are to be examined upon all evidence material and necessary in the defense of this action, and are required to produce at the deposition all papers, documents, records, memoranda, correspondence, bills, statements and any other materials relevant to this action which are in their possession, care, custody and control.

**PLEASE TAKE FURTHER NOTICE** that said examinations will continue day-to-day until completed.

Dated: Hawthorne, New York  
May 13, 2022

**TRAUB LIEBERMAN STRAUS  
& SHREWSBERRY LLP**  
*Attorneys for Defendants  
Pedro Pena and Wall Express, Inc.*

By: Lisa M. Rolle  
Lisa M. Rolle  
Mid-Westchester Executive Park  
Seven Skyline Drive  
Hawthorne, New York 10532  
(914) 347-2600

TO:

**IRINA VAIMAN, P.C.**  
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